MARINE PARKS ACT 1997

- As at 8 June 2007

- Act 64 of 1997

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MARINE PARKS ACT 1997
- LONG TITLE

An Act to provide for the declaration of marine parks; and for other purposes.

MARINE PARKS ACT 1997

- SECT 1
Name of Act

1 Name of Act
This Act is the Marine Parks Act 1997.

MARINE PARKS ACT 1997
- SECT 2
Commencement

2 Commencement
This Act commences on a day or days to be appointed by proclamation.

MARINE PARKS ACT 1997
- SECT 3
Objects of Act

3 Objects of Act
The objects of this Act are as follows:
(a) to conserve marine biological diversity and marine habitats by declaring and providing for the management of a comprehensive system of marine parks,
(b) to maintain ecological processes in marine parks,
(c) where consistent with the preceding objects:
(i) to provide for ecologically sustainable use of fish (including commercial and recreational fishing) and marine vegetation in marine parks, and
(ii) to provide opportunities for public appreciation, understanding and enjoyment of marine parks.

MARINE PARKS ACT 1997
- SECT 4
Definitions

4 Definitions
(1) In this Act:
"advisory committee" means an advisory committee established under section 35.
"Advisory Council" means the Marine Parks Advisory Council

established under section 32.

"animal" means any animal-life (other than human), whether vertebrate or invertebrate and in any stage of biological development, and includes a dead animal.

"Authority" means the Marine Parks Authority constituted by section 29.

"biological diversity" means the diversity of life and is made up of the following 3 components:

(a) genetic diversityâ€”the variety of genes (or units of heredity) in any population,

(b) species diversityâ€”the variety of species,

(c) ecosystem diversityâ€”the variety of communities of ecosystems.

"Commonwealth Native Title Act" means the Native Title Act 1993 of the Commonwealth.

"Crown land" means Crown land within the meaning of the Crown Lands Act 1989.

"ecologically sustainable use" of a marine park means the taking of plants, animals or materials from the marine park, or some other use of the marine park, in accordance with the principles and programs for ecologically sustainable development set out in section 6 (2) (a)â€"(d) of the Protection of the Environment Administration Act 1991.

"exercise" a function includes perform a duty.

"function" includes a power, authority or duty.

"marine" includes estuarine.

"marine park" means a marine park declared under section 6.

"marine park closure" â€”see section 20A (2).

"marine park ranger" â€”see section 35A (1).

"mineral" includes coal, shale or petroleum.

"native title holder" has the same meaning as it has in the Commonwealth Native Title Act.

"operational plan" for a marine park means the operational plan for the marine park adopted under Part 4.

"owner" has the same meaning as in the Local Government Act 1993, and includes a native title holder.

"plant" means any plant-life, whether vascular or non-vascular and in any stage of biological development, and includes fungi, lichens and dead plants.

"registered native title body corporate" has the same meaning as it has in the Commonwealth Native Title Act.

"registered native title claimant" has the same meaning as it has in the Commonwealth Native Title Act.

(2) Notes in the text of this Act do not form part of this Act.

MARINE PARKS ACT 1997
- SECT 5

Reference to relevant Ministers

5 Reference to relevant Ministers

(1) In this Act, a reference to "the relevant Ministers" is a reference to the Minister administering the National Parks and Wildlife Act 1974 and the Minister administering the Fisheries Management Act 1994.

(2) If a provision of this Act requires or authorises the relevant Ministers to take any action or decide any matter, the provision is taken only to require or authorise the relevant Ministers to take the action jointly or decide the matter jointly.

MARINE PARKS ACT 1997
- SECT 6
Declaration of marine parks

6 Declaration of marine parks

(1) The Governor may, by proclamation, declare an area described in the proclamation to be a marine park.

(2) The area that can be so declared includes:

(a) any area of waters of the sea or subject to tidal influence, or

(b) any area of water, or land, adjacent to such waters, or

(c) any area of land within such waters, or

(d) any area of land from time to time covered by such waters.

(3) A proclamation must not be made under this section:

(a) in respect of an area of Crown lands above mean high water mark without the consent of the Minister administering the Crown Lands Act 1989, and

(b) in respect of any area of land above mean high water mark (whether or not Crown lands) without the consent of the owner of the land.

(4) A declaration under this section in relation to an area is not affected by:

(a) an existing interest in respect of land in the area, or

(b) a change of ownership of land in the area.

(5) Subject to this Act, a provision of this Act or the regulations has effect in relation to an area of a marine park despite any such existing interest or change of ownership, unless the provision otherwise specifies.

MARINE PARKS ACT 1997

- SECT 7
Name of marine park

7 Name of marine park

(1) The Governor may, by proclamation, assign a name to a marine park.

(2) The Governor may from time to time, by proclamation, alter the name of a marine park.

MARINE PARKS ACT 1997
- SECT 8
Revocation of marine park

8 Revocation of marine park

A declaration of a marine park must not be revoked except by an Act of Parliament.

MARINE PARKS ACT 1997
- SECT 9
Variation of area of marine park

9 Variation of area of marine park

(1) The Governor may from time to time, by proclamation, vary the area of a marine park, but may only vary a marine park to remove an area if the relevant Ministers certify in writing that the area is no longer required to be part of the marine park for the purpose of attaining the objects of this Act.

(2) Sections 40 (Notice of statutory rules to be tabled) and 41 (Disallowance of statutory rules) of the Interpretation Act 1987 apply to a proclamation under this section in the same way as those sections apply to a statutory rule.

(3) The provisions of section 6 (2)â€"(5) apply to a variation of an area under this section that adds an area to a marine park in the same way as those provisions apply to the declaration of an area as a marine park.

MARINE PARKS ACT 1997
- SECT 10
Effect of declaration on aquatic reserves

10 Effect of declaration on aquatic reserves

(1) The declaration of an area as a marine park (or part of a marine park) revokes any declaration of the area as an aquatic reserve under the Fisheries Management Act 1994.

(2) An area within a marine park cannot be declared to be an aquatic reserve under the Fisheries Management Act 1994.

MARINE PARKS ACT 1997
- SECT 11
Effect of declaration on land reserved or dedicated for public purposes (other than aquatic reserves)

11 Effect of declaration on land reserved or dedicated for public purposes (other than aquatic reserves)

(1) Land that is reserved or dedicated for a public purpose may be declared to be a marine park under this Act.

(2) The land may be used for the purpose for which it is reserved or dedicated to the extent that the use is not inconsistent with this Act or the regulations.

(3) Nothing in this Act or the regulations permits the land to be used contrary to the provisions of any Act or statutory instrument applying to the land.

(4) This section extends to land that is reserved or dedicated under the National Parks and Wildlife Act 1974 or any other Act (other than land declared to be an aquatic reserve under the Fisheries Management Act 1994).

MARINE PARKS ACT 1997
- SECT 12
Effect of declaration on aquaculture

12 Effect of declaration on aquaculture

(1) The declaration of an area as a marine park does not affect any aquaculture permit or aquaculture lease under the Fisheries Management Act 1994 and in force at the time of the declaration.

(2) However, such a lease applying to any area within a marine park must not be extended or renewed under that Act, unless the regulations provide that aquaculture is permissible in the relevant area.

(3) Subsection (2) does not affect a personâ€™s entitlement to have an aquaculture lease renewed for the first time under section 167 (3) of the Fisheries Management Act 1994.

MARINE PARKS ACT 1997
- SECT 13
Dealings in relation to certain land leases within marine park

13 Dealings in relation to certain land leases within marine park

(1) This section applies to land within a marine park that is leased under the Crown Lands Act 1989.

(2) The Minister administering the Crown Lands Act 1989 must not, under that Act, approve any change in use of land to which this section applies, or approve the conversion, sale or disposal of such land without consulting the relevant Ministers.

MARINE PARKS ACT 1997
- SECT 14
Compulsory acquisition of land

14 Compulsory acquisition of land

A copy of a proposed acquisition notice under section 11 of the Land Acquisition (Just Terms Compensation) Act 1991 relating to land within a marine park must also be served on the Authority by the authority proposing to acquire the land.

MARINE PARKS ACT 1997
- SECT 14A
Consent of owners

14A Consent of owners

If an owner of land whose consent is required under section 6 or 9 to the making of a proclamation declaring an area to be a marine park or adding an area to a marine park cannot, after diligent inquiry, be found or identified, the proclamation may be made without the consent of that owner.

MARINE PARKS ACT 1997
- SECT 15
Regulations relating to marine parks generally

15 Regulations relating to marine parks generally

The regulations may make provision for or with respect to the management, protection and conservation of marine parks.

MARINE PARKS ACT 1997
- SECT 16
Regulations relating to zoning plans for marine parks

16 Regulations relating to zoning plans for marine parks

(1) Without affecting the generality of section 15, the regulations may make provision for or with respect to classifying areas within a marine park for different uses (for example, sanctuary areas, habitat areas and general use areas) by means of zoning plans set out in the regulations.

(2) The relevant Ministers are to cause public notice to be given of proposed regulations under this section containing a zoning plan for a marine park.

(3) The notice is:

(a) to specify the address of each place at which copies of the proposed regulations may be inspected, and

(b) to invite submissions to be made on the proposed regulations within the period specified in the notice (being a period of not less than 3 months after the date of the notice),

(c) to specify the address to which such submissions are to be forwarded.

(4) Copies of the proposed regulations must be displayed at such places frequented by the public as the relevant Ministers consider will bring the proposed regulations to the attention of interested persons.

(5) Before taking any further action with respect to the proposed regulations, the relevant Ministers are to consider:

(a) any submissions made within the period specified for that purpose in the notice or such further period as the relevant Ministers allow, and

(b) any comments from the Authority, the Advisory Council and any relevant advisory committee made within such time as the relevant Ministers allow, and

(c) any submissions made by a person who is the holder of an existing interest within the marine park within the period specified for that purpose in the notice or such further period as the relevant Ministers allow.

(6) Subsections (2)â€"(5) apply to any proposed regulations that amend a zoning plan for a marine park, unless:

(a) the relevant Ministers are of the opinion that the amendment is of a minor nature, and

(b) the relevant Ministers have consulted with the advisory

committee for the marine park about the proposed amendment.

MARINE PARKS ACT 1997
- SECT 17
Other regulations for marine parks

17 Other regulations for marine parks
Without affecting the generality of section 15, the regulations may make provision for or with respect to the following matters:

(a) regulating the use and enjoyment of marine parks,
(b) regulating or prohibiting the carrying out of activities (including commercial activities) within marine parks either generally or in relation to particular marine parks or by reference to different zones within a marine park,
(c) regulating or prohibiting the taking of animals, plants or materials from or into marine parks,
(d) regulating or prohibiting the entry into a marine park (or part of a marine park) of all persons or any class of persons,
(e) removing from marine parks trespassers, persons causing annoyance or inconvenience or persons committing offences,
(f) regulating navigation and use of vessels within marine parks, or closing a marine park or part of a marine park to vessels,
(g) regulating where vessels may be moored or anchored within marine parks,
(h) protecting cultural heritage within marine parks,
(i) prescribing fees payable in respect of the use of a marine park or the carrying out of any activity within a marine park.

MARINE PARKS ACT 1997
- SECT 17A
Offences against management regulations

17A Offences against management regulations
A person is guilty of an offence if the person contravenes a provision of the regulations referred to in this Division, being a contravention that is designated by the regulations as a serious offence.

Maximum penalty: In the case of a corporation, 1,000 penalty units or, in any other case, 500 penalty units.

MARINE PARKS ACT 1997
- SECT 18
Mining in marine parks prohibited

18 Mining in marine parks prohibited

(1) It is unlawful to prospect or mine for minerals in a marine park, except as expressly authorised by an Act of Parliament.

(2) The Offshore Minerals Act 1999, the Mining Act 1992, the Petroleum (Onshore) Act 1991 and the Petroleum (Submerged Lands) Act 1982 do not apply to or in respect of any area within a marine park.

(3) This section does not apply to or in respect of any licence, permit, authorisation or lease in force under any of those Acts at the commencement of this section. However, no renewal or extension of such a licence, permit, authorisation or lease may be granted after that commencement except as expressly authorised by an Act of Parliament.

MARINE PARKS ACT 1997
- SECT 19
Development within marine parkâ€”application of EPA Act

19 Development within marine parkâ€”application of EPA Act

(1) Before determining a development application under Part 4 of the Environmental Planning and Assessment Act 1979 for the carrying out of development within a marine park, a consent authority must:

(a) take into consideration:

(i) the objects of this Act specified in section 3, and

(ii) if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and

(iii) the permissible uses of the area concerned under the regulations, and

(b) if the consent authority intends to grant consent to the carrying out of the development, obtain the concurrence of the relevant Ministers to the granting of the consent.

(2) A Minister who is a determining authority must not carry out, or grant approval to carry out, an activity (within the meaning of Part 5 of the Environmental Planning and Assessment Act 1979) within a marine park unless the Minister has:

(a) taken into consideration:

(i) the objects of this Act specified in section 3, and

(ii) if a zoning plan for the marine park is contained in the regulations as referred to in

section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and

(iii) the permissible uses of the area concerned under the regulations, and

(b) in the case of an activity for which an environmental impact statement is required to be prepared under Division 3 of that Part, consulted with the relevant Ministers on the carrying out of the activity or the granting of approval.

(3) A determining authority (not being a Minister) must not carry out, or grant approval to carry out, an activity (within the meaning of Part 5 of the Environmental Planning and Assessment Act 1979) unless the determining authority has:

(a) taken into consideration:

(i) the objects of this Act specified in section 3, and

(ii) if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and

(iii) the permissible uses of the area concerned under the regulations, and

(b) in the case of an activity for which an environmental impact statement is required to be prepared under Division 3 of that Part, obtained the concurrence of the relevant Ministers to the carrying out of the activity or the granting of approval.

(4) In deciding whether or not concurrence should be granted under this section, the relevant Ministers must take into consideration:

(a) the objects of this Act specified in section 3, and

(b) if a zoning plan for the marine park is set out in the regulations as referred to in section 16, the objects of the area concerned specified in the zoning plan, and

(c) the permissible uses of the area concerned under the regulations.

(5) The provisions of section 79B (8)â€"(11) of the Environmental Planning and Assessment Act 1979, and the regulations under that Act, apply to and in respect of a requirement under this section to obtain the concurrence of the relevant Ministers in the same way as they apply to a requirement to obtain concurrence imposed on a consent authority by an environmental planning instrument under that Act.

(6) For the purposes of applying those provisions, a reference in those provisions to the matters stated pursuant to section 30 (3) of the Environmental Planning and Assessment Act 1979 (however expressed) is to be read as a reference to the objects of this Act specified in section 3 and the permissible uses of the area concerned

under the regulations.

MARINE PARKS ACT 1997
- SECT 20
Development affecting marine parkâ€”application of EPA Act

20 Development affecting marine parkâ€”application of EPA Act

(1) In determining a development application under Part 4 of the Environmental Planning and Assessment Act 1979 for the carrying out of development on land that is in the locality of a marine park, the consent authority must take into consideration the objects of this Act, the permissible uses of the area concerned under the regulations and any advice given to it by the Authority about the impact on the marine park of development in the locality.

(2) If the consent authority is of the opinion that development proposed in the development application is likely to have an effect on the plants or animals within the marine park and their habitat, the consent authority must consult with the Authority before finally determining the application.

(3) A determining authority must not carry out, or grant an approval to carry out, an activity on land that is in the locality of a marine park in purported compliance with Part 5 of the Environmental Planning and Assessment Act 1979 unless:

(a) the determining authority has taken into consideration the objects of this Act, the regulations and any advice given to it by the Authority on the impact on the marine park of the carrying out of an activity in the locality, and

(b) if the determining authority is of the opinion that the proposed activity is likely to have an effect on the plants or animals within the marine park or their habitat, the determining authority has consulted with the Authority.

MARINE PARKS ACT 1997
- SECT 20A
Prohibition of activities in marine parks

20A Prohibition of activities in marine parks

(1) The relevant Ministers may from time to time, by notification, prohibit the carrying out of any specified activity (including the taking of fish) in a marine park or part of a marine park.

(2) Any such prohibition is called a "marine park closure".

(3) A marine park closure:

(a) may apply absolutely or subject to conditions, and
(b) must specify the activities that are prohibited and the area to which it applies, and
(c) may only apply to the marine park specified in the notification, and
(d) has effect despite any provision of the regulations.

MARINE PARKS ACT 1997
- SECT 20B
Publication of notification of marine park closure

20B Publication of notification of marine park closure

(1) The notification of a marine park closure is to be published:
(a) in the Gazette, and
(b) in a newspaper circulating, or by radio or television broadcast, in the area adjacent to the marine park to which the closure applies, and
(c) by causing a copy of the notification to be exhibited in a prominent place or places adjacent to the marine park to which the closure applies.

(2) However, if the relevant Ministers consider that the marine park closure is required urgently, they may publish the notification in accordance with subsection (1) (b) or (c) so long as they publish the notification in the Gazette as soon as practicable.

MARINE PARKS ACT 1997
- SECT 20C
General provisions relating to marine park closures

20C General provisions relating to marine park closures

(1) A marine park closure takes effect on the first publication of the notification or on a later date specified in the notification.

(2) A marine park closure remains in force, subject to this Act, for the period (not exceeding 5 years) specified in the notification, but may be remade (with or without modification) by a further notification in accordance with this Division.

MARINE PARKS ACT 1997
- SECT 20D
Amendment or revocation of closures

20D Amendment or revocation of closures
The relevant Ministers may from time to time amend or revoke a marine park closure by a further notification published in accordance with this Division.

MARINE PARKS ACT 1997
- SECT 20E
General provisions relating to closures

20E General provisions relating to closures
Sections 42, 43 and 45 of the Interpretation Act 1987 apply to notifications of marine park closures in the same way as they apply to statutory rules within the meaning of that Act.

Note: The above provisions of the Interpretation Act 1987 relate to standard provisions authorising the adoption of other publications by reference, the making of differential closures, the amendment or repeal of closures and judicial notice and presumptions as to validity for closures.

MARINE PARKS ACT 1997
- SECT 20F
Regulations relating to closures

20F Regulations relating to closures
The regulations may make provision for or with respect to giving effect to marine park closures or to any other matter relating to marine park closures.

MARINE PARKS ACT 1997
- SECT 20G
Offence provisions

20G Offence provisions

(1) A person who carries out any activity in contravention of a marine park closure is guilty of an offence.

Maximum penalty: In the case of a corporation, 1,000 penalty units or, in any other case, 200 penalty units or imprisonment for 6 months, or both.

(2) A person who is in possession of any animal, plant, rock, sand or other thing that has been taken in contravention of a marine park closure is guilty of an offence.

Maximum penalty: In the case of a corporation, 500 penalty

units or, in any other case, 100 penalty units or imprisonment for 3 months, or both.

(3) It is a defence to a prosecution for an offence under subsection (2) if the person charged satisfies the court that the person did not know and could not reasonably have known that the animal, plant, rock, sand or other thing had been taken in contravention of a provision of or made under this Act.

MARINE PARKS ACT 1997
- SECT 20H
Removal of wrecked vessels and other property from marine parks

20H Removal of wrecked vessels and other property from marine parks

(1) In this section, "unused property" means:

(a) any sunken or wrecked vessel, or

(b) any abandoned property, or

(c) anything unlawfully erected or placed.

(2) The Authority may, by notice in writing, direct the owner of or person responsible for any unused property in a marine park to remove the property within such time as is specified in the notice. Any such owner or person who fails, without reasonable excuse, to comply with the direction is guilty of an offence.

Maximum penalty: In the case of a corporation, 500 penalty units or, in any other case, 100 penalty units or imprisonment for 3 months, or both.

(3) The Authority may remove, or authorise the removal of, any unused property in such manner as the Authority thinks fit (whether or not the Authority has issued a direction for its removal under this section). The unused property may be removed by its destruction if it is reasonable to do so in the circumstances.

(4) The Authority may, subject to and in accordance with the regulations, dispose of anything removed under this section.

(5) The Authority may recover as a debt in a court of competent jurisdiction the reasonable costs and expenses incurred by the Authority in the exercise of the Authorityâ€™s powers under this section from the owner of or person responsible for the unused property.

(6) Except in the case of an emergency, the Authority must not give a direction for the removal of any unused property, or remove or authorise the removal of any unused property, that the Authority is of the opinion is likely to have significant cultural or ecological value unless the Authority:

(a) has made an assessment of that cultural or ecological value, and

(b) has forwarded a copy of that assessment to the relevant advisory committee at least 4 weeks before giving the

direction or removing or authorising the removal of the unused property.

MARINE PARKS ACT 1997
- SECT 21
Relationship with Coastal Protection Act 1979

21 Relationship with Coastal Protection Act 1979
The Minister administering Part 3 of the Coastal Protection Act 1979 must notify the Authority of the Ministerâ€™s intention to give any concurrence under that Part to the carrying out of development within any area in a marine park or the use or occupation of any area in a marine park.

MARINE PARKS ACT 1997
- SECT 22
Relationship of Part with other legislation

22 Relationship of Part with other legislation
(1) The requirements made by or under this Part are in addition to any requirement in any other Act or statutory instrument.
(2) In particular, the Fisheries Management Act 1994 and the National Parks and Wildlife Act 1974 apply to any relevant area of a marine park.

MARINE PARKS ACT 1997
- SECT 23
Preparation of operational plan for marine park

23 Preparation of operational plan for marine park
The Authority is to cause an operational plan to be prepared for each marine park as soon as practicable after the declaration of the marine park.

MARINE PARKS ACT 1997
- SECT 24
Contents and objectives of operational plan for marine park

24 Contents and objectives of operational plan for marine park
An operational plan for a marine park is to contain a scheme of the operations

that the Authority proposes to undertake or permit in or in relation to the marine park to attain the objects of this Act.

MARINE PARKS ACT 1997
- SECT 25
Adoption of operational plan for marine park

25 Adoption of operational plan for marine park

(1) On the preparation of an operational plan for a marine park, the Authority is to refer the plan to the Advisory Council and the advisory committee for the marine park for consideration and advice.

(2) The Authority is to consider any comments that it receives, within such period as the Authority specifies when referring the plan, from the Advisory Council or any relevant advisory committee, and may amend the operational plan to take account of any such comments.

(3) The Authority is to submit the operational plan to the relevant Ministers, together with any comments from the Advisory Council and the advisory committee for the marine park that the Authority did not include in the operational plan.

(4) On the submission of the operational plan, the relevant Ministers are to cause public notice to be given of the proposed plan.

(5) The notice is:

(a) to specify the address of each place at which copies of the proposed plan may be inspected, and

(b) to invite submissions to be made on the proposed plan within the period specified in the notice (being a period of not less than 3 months after the date of the notice), and

(c) to specify the address to which such submissions are to be forwarded.

(6) The relevant Ministers are to consider:

(a) any comments made within the period specified for that purpose in the notice referred to in subsection (4) or such further period as the relevant Ministers allow, and

(b) any comments from the Advisory Council and the advisory committee for the marine park, and

(c) any comments made by persons who are the holders of existing interests within the marine park within the period specified for that purpose in the notice referred to in subsection (4) or such further period as the relevant Ministers allow,

and may amend the plan to take account of any such comments.

(7) The relevant Ministers may:

(a) adopt the operational plan without alteration or with such alterations as the Ministers may think fit, or

(b) refer the operational plan back to the Authority for further consideration.

(8) The relevant Ministers are to ensure that an operational plan for a marine park is adopted as soon as practicable and, in any event, within 12 months after the making of the first regulation that sets out a zoning plan for the marine park (as referred to in section 16). However, the operational plan is not invalid merely because it was adopted after that 12-month period.

MARINE PARKS ACT 1997
- SECT 26
Alteration or revocation of operational plan for marine park

26 Alteration or revocation of operational plan for marine park

(1) The relevant Ministers may:

(a) alter an operational plan for a marine park, or

(b) revoke the plan and substitute a new operational plan.

(2) If the relevant Ministers propose to alter or to revoke and substitute an operational plan, the Ministers are to instruct the Authority to prepare the alteration or new plan as soon as practicable.

(3) Except as provided by subsection (4), section 25 applies to the alteration of an operational plan for a marine park in the same way as it applies to the preparation and adoption of a new operational plan for a marine park.

(4) If the relevant Ministers are of the opinion that a proposed alteration to an operational plan is minor in nature, the relevant Ministers may direct that section 25 does not apply to the alteration.

MARINE PARKS ACT 1997
- SECT 26A
Annual review of operational plan for marine park

26A Annual review of operational plan for marine park

(1) The advisory committee for a marine park may review the operational plan for the marine park every 12 months to determine whether or not the plan is effective and is being satisfactorily implemented.

(2) The advisory committee must forward a report on the outcome of the review to the relevant Ministers, the Authority and the Advisory Council as soon as practicable after its completion.

(3) The report is to include any recommendations of the advisory

committee as to how the operational plan could be made more effective or could be better implemented.

MARINE PARKS ACT 1997
- SECT 26B
Review of operational plan for marine park

26B Review of operational plan for marine park

(1) The Authority is to commence to conduct a review of the operational plan for each marine park before the expiration of the period of 5 years after the adoption of the operational plan.

(2) If the Authority considers that significant changes have been made to the zoning plan for a marine park (as referred to in section 16), the Authority is to commence to conduct a review of the operational plan for the marine park as soon as practicable after the making of the regulation containing those changes.

(3) The Authority is to cause public notice to be given of a proposed review under this section.

(4) The notice is:

(a) to invite submissions to be made within the period specified in the notice (being a period of not less than 3 months after the date of the notice), and

(b) to specify the address to which such submissions are to be forwarded.

(5) In conducting the review, the Authority is to consider any submissions made within the period specified for that purpose in the notice or such further period as the Authority allows.

(6) The Authority must forward a report on the outcome of the review to the relevant Ministers, the Advisory Council and the relevant advisory committee within 3 months after the expiration of the period allowed under this section for the making of submissions in respect of the review.

MARINE PARKS ACT 1997
- SECT 26C
Preparation of new operational plan for marine park following review

26C Preparation of new operational plan for marine park following review

(1) On the completion of a review under section 26B of an operational plan for a marine park, the Authority is to cause a new operational plan to be prepared for the marine park.

(2) The provisions of this Part (section 23 excepted) apply to an operational plan required to be prepared under this section in the

same way as those provisions apply to an operational plan required to be prepared under section 23.

(3) However, an operational plan for a marine park required to be prepared under this section must be referred to the Advisory Council and the advisory committee for the marine park within 3 months after the report is forwarded as referred to in section 26B (6).

(4) An operational plan for a marine park required to be prepared under this section is not invalid merely because the relevant report is forwarded after the 3-month period referred to in section 26B (6) or the operational plan is referred to the Advisory Council or the advisory committee for the marine park after the 3-month period referred to in subsection (3).

(5) On the adoption of an operational plan for a marine park required to be prepared under this section the previous operational plan for the marine park is revoked.

MARINE PARKS ACT 1997
- SECT 27
Operations under operational plan

27 Operations under operational plan

(1) Any functions of the Authority or any marine park rangers in relation to a marine park are required to be exercised in accordance with the operational plan for the marine park.

(2) However, the exercise of those functions is not invalid because of a contravention of any such plan.

MARINE PARKS ACT 1997
- SECT 28
Relationship with other plans of management

28 Relationship with other plans of management

If an area within a marine park is subject to a plan of management under the National Parks and Wildlife Act 1974, the operational plan for the marine park under this Act prevails over the plan of management under that Act to the extent of any inconsistency.

MARINE PARKS ACT 1997
- SECT 29
Establishment of Marine Parks Authority

29 Establishment of Marine Parks Authority

(1) There is constituted by this Act a body corporate with the corporate name of the Marine Parks Authority.

(2) The Authority consists of:

(a) the Director-General of the Premierâ€™s Department who is to be the Chairperson of the Authority, and

(b) the Director-General of NSW Fisheries, and

(c) the Director-General of National Parks and Wildlife.

(2A) The Authority is subject to the control and direction of the relevant Ministers in the exercise of its functions.

(3) The Authority is, for the purposes of any Act, a statutory body representing the Crown.

(4) Schedule 1 has effect with respect to the procedure of the Authority.

MARINE PARKS ACT 1997
- SECT 30
Functions of the Authority

30 Functions of the Authority

(1) The Authority has such functions as are conferred or imposed on it by or under this or any other Act.

(2) In particular, the Authority has the following functions:

(a) to investigate, assess and consider proposals for marine parks or variations of the areas of marine parks,

(b) to make recommendations as to the appropriate classification of areas within marine parks,

(c) to prepare an operational plan in respect of each marine park,

(d) to manage and control activities that may affect marine biological diversity, marine habitats and marine ecological processes in marine parks,

(e) to provide for and regulate the ecologically sustainable use (including commercial and recreational fishing) of marine parks,

(f) to disseminate information about marine parks,

(g) to encourage public appreciation, understanding and enjoyment of marine parks and, where consistent with the other functions of the Authority, public recreation in marine parks,

(h) to encourage and permit, when appropriate, scientific research into the ecology of marine systems.

MARINE PARKS ACT 1997

- SECT 31
Staff of the Authority

31 Staff of the Authority
The Authority may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of the National Parks and Wildlife Service, NSW Fisheries or any other government department or public or local authority.

MARINE PARKS ACT 1997
- SECT 32
Establishment of Marine Parks Advisory Council

32 Establishment of Marine Parks Advisory Council
(1) There is established by this Act a Marine Parks Advisory Council.
(2) The Advisory Council consists of the Director-General of NSW Fisheries, the Director-General of National Parks and Wildlife and the following members appointed by the relevant Ministers:
(a) one member to represent the Commonwealth Government,
(b) two members to represent the interests of marine conservation, one being an expert in marine conservation and one being nominated by a peak group or body generally recognised for its interest in conservation, as provided for in the regulations,
(c) one member with expertise in marine science,
(d) one member to represent the interests of Aboriginal people,
(e) one member to represent the interests of the tourism industry,
(f) one member to represent the interests of commercial fishers,
(g) one member to represent the interests of recreational fishers,
(h) one member to represent the interests of scuba divers.
(3) The relevant Ministers must publicly call for nominations to the positions referred to in subsection (2) (other than the position referred to in subsection (2) (a) and the position for which a person is required to be nominated in accordance with subsection (2) (b)).

MARINE PARKS ACT 1997
- SECT 33
Functions of Marine Parks Advisory Council

33 Functions of Marine Parks Advisory Council

(1) The Advisory Council has such functions as are conferred or imposed on it by or under this or any other Act.

(2) In particular, the Advisory Council is, on the request of the relevant Ministers or the Authority, to advise on any of the following matters:

(a) proposals for marine parks and variations of the areas of marine parks,

(b) the appropriate classification of areas within marine parks,

(c) the conservation of marine biological diversity within marine parks,

(d) the ecologically sustainable use of marine parks,

(e) the public use and enjoyment of marine parks,

(f) any other matter relating to the operation of this Act and the regulations.

MARINE PARKS ACT 1997
- SECT 34
Provisions relating to members and procedure of Advisory Council

34 Provisions relating to members and procedure of Advisory Council

Schedule 2 has effect.

MARINE PARKS ACT 1997
- SECT 35
Marine parks advisory committees

35 Marine parks advisory committees

(1) The relevant Ministers must establish an advisory committee for each marine park.

(2) An advisory committee is to include at least 9 members representing the interests of the National Parks and Wildlife Service, NSW Fisheries, marine conservation, marine science, Aboriginal people, the tourism industry, commercial fishers, recreational fishers, scuba divers and local councils.

(3) The relevant Ministers are to nominate a member of an advisory committee to be the chairperson of the advisory committee.

(4) An advisory committee has such functions as are conferred on it by or under this or any other Act.

(4A) The principal function of an advisory committee is to advise the relevant Ministers and the Authority on the management of each marine

park for which the advisory committee was established and, in particular, on the following matters:

(a) the appropriate classification of areas within the marine park for the purposes of proposed zoning plans (as referred to in section 16) and associated provisions to be included in the regulations,

(b) the provisions of an operational plan for the marine park,

(c) the conservation of marine biological diversity within the marine park,

(d) the ecologically sustainable use of the marine park and whether any particular use of the marine park is not ecologically sustainable,

(e) the use and enjoyment of the marine park by members of the public.

(5) The provisions of Schedule 2 apply to an advisory committee in the same way as they apply to the Advisory Council with any necessary modifications, including modifications prescribed by the regulations.

MARINE PARKS ACT 1997
- SECT 35A
Marine park rangers

35A Marine park rangers

(1) For the purposes of this Act, a "marine park ranger" means:

(a) a person appointed as a marine park ranger in accordance with this section, or

(b) a police officer.

(2) The relevant Ministers may appoint any of the following persons as a marine park ranger for the purposes of this Act:

(a) an officer of the National Parks and Wildlife Service referred to in section 6 of the National Parks and Wildlife Act 1974,

(b) a fisheries officer within the meaning of the Fisheries Management Act 1994,

(c) an officer or employee of a government Department or a public or local authority.

(3) The relevant Ministers are not to appoint as a marine park ranger a person who is:

(a) an officer or employee of a local council without first obtaining the consent of the general manager of the council to the appointment, or

(b) an officer or employee of any other public or local authority without first obtaining the consent of the employer of the person to the appointment.

MARINE PARKS ACT 1997
- SECT 36
Application of Fisheries Management Act 1994

36 Application of Fisheries Management Act 1994

(1) Divisions 1â€"4 of Part 9 (Enforcement) of the Fisheries Management Act 1994:

(a) apply to and in respect of a marine park ranger in the same way as those provisions apply to and in respect of a fisheries officer, and

(b) apply to and in respect of an offence against this Act or the regulations in the same way as they apply to and in respect of a fisheries offence.

(2) In so applying those provisions:

(a) a reference to a fisheries officer is to be read as a reference to a marine park ranger, and

(b) a reference to the Minister is to be read as a reference to the relevant Ministers, and

(c) a reference to a fisheries offence is to be read as a reference to an offence against this Act or the regulations, and

(d) a reference to the Director-General includes a reference to the Director-General of National Parks and Wildlife.

(3) The application of Divisions 1â€"4 of Part 9 of the Fisheries Management Act 1994 under this section is subject to such other modifications as are prescribed by the regulations.

(4) An offence against the provisions so applied is an offence against this Act.

(5) This section does not limit the application of the Fisheries Management Act 1994 to marine parks.

MARINE PARKS ACT 1997
- SECT 37
Application of National Parks and Wildlife Act 1974

37 Application of National Parks and Wildlife Act 1974

(1) Sections 157, 158 and 159 of the National Parks and Wildlife Act 1974 apply to and in respect of an offence against this Act or the regulations in the same way as they apply to and in respect of an offence against that Act or the regulations under that Act.

(2) In so applying those provisions:

(a) a reference to the Director-General includes a

reference to the Director of NSW Fisheries, and
(b) a reference to an officer of the Service or a person duly authorised by the Minister is to be read as a reference to a marine park ranger, and
(c) a reference to an offence against that Act is to be read as a reference to an offence under this Act, and
(d) a reference to an offence against the regulations under that Act is to be read as a reference to an offence against the regulations under this Act.

(3) The application of sections 157, 158 and 159 of the National Parks and Wildlife Act 1974 under this section is subject to such other modifications as are prescribed by the regulations.

(4) An offence against the provisions so applied is an offence against this Act.

(5) This section does not limit the application of the National Parks and Wildlife Act 1974 to marine parks.

MARINE PARKS ACT 1997
- SECT 38
Penalty notices

38 Penalty notices

(1) A marine park ranger may serve a penalty notice on a person if it appears to the ranger that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of the penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment under this section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(6) The regulations may:
(a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
(b) prescribe the amount of penalty for an offence if dealt with under this section, and
(c) prescribe different amounts of penalty for different offences or classes of offences.

(7) The amount of penalty prescribed under this section for an offence may not exceed the maximum amount of penalty that could be imposed for the offence by a court.
(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences.

MARINE PARKS ACT 1997
- SECT 39
Proceedings for offences

39 Proceedings for offences
(1) Proceedings for an offence against this Act or the regulations may be dealt with:
(a) summarily before a Local Court, or
(b) summarily before the Land and Environment Court.
(2) If proceedings are brought in a Local Court, the maximum monetary penalty that the Local Court may impose for the offence is, despite any other provision of this Act or the regulations, $20,000.

MARINE PARKS ACT 1997
- SECT 40
Time within which proceedings may be commenced

40 Time within which proceedings may be commenced
Despite the Criminal Procedure Act 1986 or any other Act, proceedings for an offence against this Act or the regulations may be commenced not later than 2 years after the date alleged to be the date on which the offence was committed.

MARINE PARKS ACT 1997
- SECT 41
Offences by corporations

41 Offences by corporations
(1) If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
(2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been

proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

MARINE PARKS ACT 1997
- SECT 42
Marine Parks Fund

42 Marine Parks Fund

(1) There is to be established in the Special Deposits Account a Marine Parks Fund into which are to be paid:

(a) all fees and charges under this Act, and

(b) any money received in connection with the administration of this Act, and

(c) any gift or bequest of money made for payment into the Fund.

(2) There may be paid out of the Fund all charges, costs and expenses incurred in the administration of this Act, including:

(a) the costs and expenses incurred by the relevant Ministers, the Director of NSW Fisheries, the Director-General of National Parks and Wildlife and the Authority in the carrying out of functions under this Act, and

(b) such costs and expenses of the Advisory Council or advisory committees as are approved by the relevant Ministers.

MARINE PARKS ACT 1997
- SECT 43
Act to bind Crown

43 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

MARINE PARKS ACT 1997
- SECT 43A
Delegations

43A Delegations

(1) The relevant Ministers may delegate a function conferred by or under this Act on the relevant Ministers (other than the power of delegation conferred by this subsection) to the Authority.

(2) The Authority may delegate the exercise of any of its functions (other than this power of delegation) to any person, except as provided by subsection (3).

(3) The Authority may delegate any of the functions delegated to it under this section by the relevant Ministers, but only to the extent authorised by the relevant Ministers.

MARINE PARKS ACT 1997
- SECT 44
Nominees

44 Nominees

(1) The Director-General of the Premierâ€™s Department may nominate an officer of the Premierâ€™s Department to act in the Director-Generalâ€™s place at any meeting of the Authority.

(2) The Director-General of National Parks and Wildlife may nominate an officer of the National Parks and Wildlife Service to act in the Director-Generalâ€™s place at any meeting of the Authority or the Advisory Council.

(3) The Director of NSW Fisheries may nominate an officer of NSW Fisheries to act in the Directorâ€™s place at any meeting of the Authority or the Advisory Council.

(4) A nominee appointed under this section by the Director-General of the Premierâ€™s Department has, while acting in the place of the Director-General at a meeting, the functions of the Director-General, and is taken to be the Director-General, for the purposes of that meeting.

(5) A nominee appointed under this section by the Director-General of National Parks and Wildlife has, while acting in the place of the Director-General at a meeting, the functions of the Director-General, and is taken to be the Director-General, for the purposes of that meeting.

(6) A nominee appointed under this section by the Director of NSW Fisheries has, while acting in the place of the Director at a meeting, the functions of the Director, and is taken to be the Director, for the purposes of that meeting.

MARINE PARKS ACT 1997
- SECT 44A
Service of documents generally

44A Service of documents generally

A document that is authorised or required by this Act or the regulations to be served on any person may be served by:

(a) in the case of a natural person:

(i) delivering it to the person personally, or

(ii) sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or

(iii) sending it by facsimile transmission to the facsimile number of the person, or

(b) in the case of a body corporate:

(i) leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or

(ii) sending it by facsimile transmission to the facsimile number of the body corporate.

MARINE PARKS ACT 1997

- SECT 44B

Service of documents on native title holders

44B Service of documents on native title holders

(1) If a document is authorised or required by this Act or the regulations to be served on a person who is a native title holder in relation to an area, service of the document is taken to be effected in accordance with section 44A if the document is served on a registered native title body corporate in relation to the area.

(2) If no approved determination of native title (within the meaning of the Commonwealth Native Title Act) exists in relation to the area concerned, a document authorised or required by this Act or the regulations to be served on a person who is a native title holder who cannot be identified may be served on any such person by serving it, in a manner authorised by section 44A on:

(a) any representative Aboriginal/Torres Strait Islander bodies for an area that includes the area concerned, and

(b) any registered native title claimants in relation to the area concerned.

MARINE PARKS ACT 1997
- SECT 44C
Meaning of â€œdiligent inquiryâ€

44C Meaning of â€œdiligent inquiryâ€

(1) For the purposes of section 14A, a "diligent inquiry" to identify a person is the taking of the following actions:

(a) the searching of the following registers:

(i) the Register kept under the Real Property Act 1900, and

(ii) the General Register of Deeds kept under the Conveyancing Act 1919, and

(iii) the National Native Title Register kept under the Commonwealth Native Title Act,

(b) placing, on a board or other structure in a conspicuous place on the land concerned, a notice:

(i) stating that it is intended to declare the land as part of a marine park, and

(ii) inviting the owner of the land to contact the Authority at a specified address,

(c) publishing a notice referred to in paragraph (b) in a newspaper circulating in the vicinity of the land concerned and in a newspaper circulating generally in New South Wales.

(2) For the purposes of section 14A, a person who is a native title holder is taken to have been unable, after diligent inquiry, to be found or identified if:

(a) notice of the proposed proclamation is served by the relevant Ministers in accordance with section 44B, and

(b) at the expiration of the period of 4 months commencing on service of the notice, the person is neither a registered native title claimant nor a registered native title body corporate in relation to the land concerned.

MARINE PARKS ACT 1997
- SECT 46
Resolution of disputes

46 Resolution of disputes

(1) Any dispute arising under this Act between the relevant Ministers may be resolved by the Premier.

(2) Any dispute arising under this Act between two or more public authorities may be resolved by agreement between the Ministers responsible for those public authorities or, if agreement cannot be

reached, by the Premier.

(3) A Minister or public authority must comply with any direction arising out of the resolution of a dispute under this section and for that purpose is empowered to do so, despite the provisions of this or any other Act.

MARINE PARKS ACT 1997
- SECT 47
Arrangements with Commonwealth

47 Arrangements with Commonwealth

(1) The relevant Ministers may enter into arrangements with the Commonwealth or Commonwealth authorities for the exercise of functions under this Act with respect to waters under the control of the Commonwealth.

(2) The exercise of those functions in accordance with those arrangements are authorised by this Act.

MARINE PARKS ACT 1997
- SECT 48
Regulations

48 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may create an offence punishable by a penalty not exceeding 100 penalty units.

MARINE PARKS ACT 1997
- SECT 49
Review of Act

49 Review of Act

(1) The relevant Ministers are to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

(3) A report on the outcome of the review is to be tabled in each

House of Parliament within 12 months after the end of the period of 5 years.

MARINE PARKS ACT 1997
- SECT 50
Savings, transitional and other provisions

50 Savings, transitional and other provisions
Schedule 3 has effect.

MARINE PARKS ACT 1997
- SCHEDULE 1

SCHEDULE 1 – Provisions relating to procedure of Authority
(Section 29)
1 Definition
In this Schedule:
"member" means a member of the Authority.
2 General procedure for calling and holding meetings of Authority
The procedure for the calling and holding of meetings of the Authority is to be determined by the Authority, subject to any directions of the relevant Ministers.
3 Quorum
The quorum for a meeting of the Authority is 2 members.
4 Presiding member
(1) The Chairperson of the Authority (or, in the absence of the Chairperson, the member chosen by the members present) is to preside at a meeting of the Authority.
(2) The presiding member has a deliberative vote. In the event of an equality of votes, the presiding member (if the Chairperson of the Authority) has a second or casting vote.
5 Voting
A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present is the decision of the Authority.
6 Transaction of business outside meetings or by telephone
(1) The Authority may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Authority for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Authority.
(2) The Authority may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any

member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Authority.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Authority.

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

MARINE PARKS ACT 1997
- SCHEDULE 2

SCHEDULE 2 – Provisions relating to members and procedure of Advisory Council

(Sections 34, 35)

1 Definitions

In this Schedule:

"appointed member" means a member other than the Director of NSW Fisheries or the Director-General of National Parks and Wildlife.

"member" means a member of the Advisory Council.

2 Terms of office

(1) Subject to this Division, an appointed member holds office for the term specified in his or her instrument of appointment (not exceeding 4 years) but is eligible (if otherwise qualified) for re-appointment.

(2) A person may not hold office for a total of more than 8 years.

3 Allowances for appointed members

An appointed member is entitled to be paid such allowances as the relevant Ministers from time to time determine in respect of the member.

4 Vacancy in office of appointed member

(1) The office of an appointed member becomes vacant if the member:

(a) dies, or

(b) completes a term of office and is not re-appointed, or

(c) resigns the office by instrument in writing addressed to the relevant Ministers, or

(d) is removed from office by the relevant Ministers under this clause, or

(e) is absent from 3 consecutive meetings of the Advisory Council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the relevant Ministers or unless,

before the expiration of 4 weeks after the last of those meetings, the member is excused by the Advisory Council for having been absent from those meetings, or

(f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

(g) becomes a mentally incapacitated person.

(2) The relevant Ministers may remove an appointed member from office at any time.

5 Filling of vacancy in office of appointed member

If the office of an appointed member becomes vacant, the relevant Ministers are to appoint a person to fill the office in accordance with this Act.

6 Chairperson

Meetings of the Advisory Council are to be chaired, alternately, by the Director of NSW Fisheries and the Director-General of National Parks and Wildlife.

7 General procedure for calling and holding meetings of Advisory Council

(1) The procedure for the calling and holding of meetings of the Advisory Council is to be determined by the relevant Ministers.

(2) The Advisory Council is to hold not more than 2 meetings each calendar year, unless otherwise directed by the relevant Ministers.

8 Quorum

The quorum for a meeting of the Advisory Council consists of a majority of its members for the time being.

9 Voting

A recommendation supported by a majority of votes cast at a meeting of the Advisory Council at which a quorum is present is the recommendation of the Advisory Council.

10 Disclosure of pecuniary interests

(1) A member of the Advisory Council:

(a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Advisory Council, and

(b) whose interest appears to raise a conflict with the proper performance of the memberâ€™s duties in relation to the consideration of the matter,

must, as soon as possible after the relevant facts have come to the memberâ€™s knowledge, disclose the nature of the interest to the chairperson of the Advisory Council.

(2) A disclosure by a member at a meeting of the Advisory Council that the member:

(a) is a member, or is in the employment, of a specified company or other body, or

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under this clause.

(3) After a member has disclosed the nature of an interest in any matter, the member must not, unless the chairperson otherwise determines:

(a) be present during any deliberation of the Advisory Council with respect to the matter, or

(b) take part in any decision of the Advisory Council with respect to the matter.

(4) A contravention of this clause does not invalidate any decision of the Advisory Council.

11 Functions of members

(1) The members of the Advisory Council are to ensure that the Advisory Council exercises its functions conferred or imposed by section 33.

(2) The functions of the members do not include the expenditure of funds on behalf of the Advisory Council or representing the relevant Ministers, unless they are expressly authorised to do so by the relevant Ministers.

MARINE PARKS ACT 1997
- SCHEDULE 3

SCHEDULE 3 – Savings, transitional and other provisions
(Section 50)

Part 1 - Preliminary 1 Regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

this Act

Marine Parks Amendment Act 2000

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 - Provisions consequent on enactment of this Act 2 Regulations relating

to aquatic reserves

(1) If an aquatic reserve under the Fisheries Management Act 1994 is revoked by a declaration of a marine park under this Act, the provisions of the regulations under Division 2 of Part 7 of that Act relating to the aquatic reserve (as in force on the declaration of the marine park) continue to have effect in relation to the marine park and are taken to be regulations under this Act and may be amended or repealed accordingly.

(2) Despite subclause (1), on the commencement of this clause, provisions the same as the provisions of Parts 1 and 9 of the Fisheries Management (Aquatic Reserves) Regulation 1995 (as in force immediately before 1 September 2000) are taken to form a regulation that may be cited as the Marine Parks (Solitary Islands) Regulation 2000.

(3) The Marine Parks (Solitary Islands) Regulation 2000 is taken to be a regulation made under this Act and may be amended or repealed accordingly.

(4) Part 2 of the Subordinate Legislation Act 1989 does not apply to a regulation taken to have been made under this Act by the operation of this clause.

(5) For the purposes of section 10 of the Subordinate Legislation Act 1989:

(a) a regulation taken to have been made under this Act by the operation of subclause (1) is taken to have been published on the revocation of the relevant declaration referred to in that subclause, and

(b) the regulation referred to in subclause (3) is taken to have been published on the date of commencement of this clause.

(6) Sections 39, 40 and 41 of the Interpretation Act 1987 do not apply to a regulation taken to have been made by the operation of this clause.

(7) In any regulation taken to have been made under this Act by the operation of this clause:

(a) a reference to the relevant aquatic reserve is taken to be a reference to a marine park, and

(b) a reference to the Director of NSW Fisheries is taken to be a reference to the Authority.

(8) A defence under section 36 or 37 of the Fisheries Management Act 1994 applies to an offence against a regulation referred to in subclause (4).

Part 3 - Provisions consequent on enactment of Marine Parks Amendment Act 2000

3 Declaration of certain marine parks

(1) The declarations of the Jervis Bay Marine Park and the Solitary Islands Marine Park published in the Gazette on 2 January 1998 and Lord Howe Island Marine Park published in the Gazette on 26 February 1999:

(a) are taken to have been validly proclaimed in accordance

with the provisions of Part 2 as in force at the time each of those proclamations was made, and

(b) are revoked on the commencement of this clause.

(2) On the commencement of this clause:

(a) the areas described in Part 1 of Schedule 4 are declared to be a marine park to be known as â€œJervis Bay Marine Parkâ€ , and

(b) the areas described in Part 2 of Schedule 4 are declared to be a marine park to be known as â€œSolitary Islands Marine Parkâ€ , and

(c) the areas described in Part 3 of Schedule 4 are declared to be a marine park to be known as â€œLord Howe Island Marine Parkâ€ .

(3) The declaration of an area to be a marine park by the operation of subclause (2) is taken to be a declaration made in accordance with section 6 and may be revoked or varied in accordance with this Act.

(4) In Schedule 4:

"Lord Howe Island" has the same meaning as "Island" in section 3 (1) of the Lord Howe Island Act 1953.

"tidal lands" means any area of land that is covered from time to time by tidal waters, and that is above the lowest astronomical tide level.

"tidal limit" means to the limit of tidal influence at mean high water mark.

"tidal waters" means any area of waters of the sea or subject to tidal influence.

(5) Latitudes and longitudes referred to in Schedule 4 are latitudes and longitudes determined by reference to the Australian Geodetic Datum 1966 (AGD66).

4 Advisory committees

(1) An advisory committee established by the Authority under section 35 and in existence immediately before the commencement of Schedule 1 [15] to the Marine Parks Amendment Act 2000 is taken on that commencement to have been established under that section by the relevant Ministers.

(2) A person holding office as chairperson of an advisory committee under section 35 immediately before the commencement of Schedule 1 [17] to the Marine Parks Amendment Act 2000 is taken on that commencement to have been appointed as chairperson by the relevant Ministers.

5 Marine park rangers

A person who, immediately before the commencement of section 35A, was authorised under paragraph (a) or (b) of the definition of "marine park ranger" in section 4 (as in force immediately before the commencement of Schedule 1 [2] to the Marine Parks Amendment Act 2000) to be a marine park ranger is taken to have been appointed by the relevant Ministers as a marine park ranger under section 35A.

MARINE PARKS ACT 1997
- SCHEDULE 4

SCHEDULE 4 – Declaration of marine parks
(Schedule 3, clause 3)
Part 1 - Jervis Bay Marine Park
All Crown lands beneath tidal and coastal waters including Jervis Bay and its tidal tributaries to mean high water mark, within the area set out below, together with the waters within that area but not including any area within Booderee National Park as proclaimed under the National Parks and Wildlife Conservation Act 1975 of the Commonwealth:

(a) commencing at a point at mean high water mark at the most northerly point of Kinghorn Point reef on Warrain Beach (34Â°57â€²54â€³S, 150Â°46â€²42â€³E),

(b) then due east to a position at 34Â°57â€²54â€³S, 150Â°47â€²12â€³E being 500 metres seaward of the territorial sea baseline (declared under section 7 of the Seas and Submerged Lands Act 1973 of the Commonwealth in the Commonwealth of Australia Gazette S29 of 9 February 1983) at the most northerly point of Kinghorn Point reef on Warrain Beach,

(c) then generally in a south-easterly direction to a position at 34Â°59â€²36â€³S, 150Â°50â€²30â€³E being 1500 metres due north of the most northerly point at Little Beecroft Head,

(d) then generally in a south-easterly direction to a position at 35Â°00â€²54â€³S, 150Â°52â€²00â€³E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Beecroft Head,

(e) then generally in a southerly direction to a position at 35Â°04â€²36â€³S, 150Â°51â€²00â€³E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Crocodile Head,

(f) then generally in a south-westerly direction to a position at 35Â°06â€²36â€³S, 150Â°48â€²18â€³E being a point 1500 metres due south of the most southerly point at the territorial sea baseline of Point Perpendicular,

(g) then generally in a southerly direction to a position at 35Â°10â€²18â€³S, 150Â°46â€²18â€³E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Cape St George,

(h) then generally in a south-westerly direction to a position at 35Â°12â€²54â€³S, 150Â°41â€²42â€³E being a point 1500 metres due south of the most southerly point at the territorial sea baseline of St Georges Head,

(i) then generally in a north-westerly direction to a position at 35Â°11â€²6â€³S, 150Â°35â€²42â€³E being a point at mean high water mark of the most southerly point of Bherwerre Beach,

(j) then generally north along the coast at mean high water mark of Bherwerre Beach, Bherwerre Peninsula and all its tidal tributaries, Bowen Island, Jervis Bay and all its tidal tributaries, Beecroft Peninsula and all its tidal tributaries, Currarong Beach, and Kinghorn Point reef, to the point of commencement described in paragraph (a) above.

Part 2 - Solitary Islands Marine Park

All Crown lands beneath tidal and coastal waters to mean high water mark, within the area set out below, together with the waters within that area:

(a) commencing at a point at mean high water mark at the most easterly point of Plover Island (29Â°40â€²24â€³S, 153Â°19â€²49â€³E),

(b) then along a line drawn along latitude 29Â°40â€²24â€³S, to a point 3 nautical miles due east of the territorial sea baseline (declared under section 7 of the Seas and Submerged Lands Act 1973 of the Commonwealth in the Commonwealth of Australia Gazette S29 of 9 February 1983),

(c) then generally in a southerly direction, including all coastal waters within 3 nautical miles of the territorial sea baseline of the coast, and within 3 nautical miles of the territorial sea baseline of North West Rock, North Solitary Island, North Rock, North West Solitary Island, South West Solitary Island, South Solitary Island and Split Solitary Island, to a point 3 nautical miles due east of the territorial sea baseline at the eastern most point of Muttonbird Island,

(d) then along a line drawn along latitude 30Â°18â€²25â€³S, to a point at mean high water mark of the eastern most point of Muttonbird Island (30Â°18â€²25â€³S, 153Â°9â€²12â€³E),

(e) then generally in a northerly direction along the coast at mean high water mark, including all rivers, estuaries, bays, lagoons and inlets upstream to their tidal limit, and tidal lands, including Plover Island, to the point of commencement described in paragraph (a) above.

Part 3 - Lord Howe Island Marine Park

All Crown lands beneath tidal and coastal waters surrounding Lord Howe Island to mean high water mark, together with those waters.

MARINE PARKS ACT 1997
- NOTES

See also:
Statute Law (Miscellaneous Provisions) Bill 2007

MARINE PARKS ACT 1997
- NOTES

Reprint history:
Reprint No 15 February 2002

MARINE PARKS ACT 1997
- NOTES

Historical notes
The following abbreviations are used in the Historical notes:

Table of amending instrumentsMarine Parks Act 1997 No 64. Assented to 10.7.1997. Date of commencement, 1.8.1997, sec 2 and GG No 86 of 1.8.1997, p 5825. This Act has been amended as follows:

		Offshore Minerals Act
		1999. Assented to 8.7.1999.
1999	No 42	
		Date of commencement, 31.3.2000, sec 2 and GG No 42 of 31.3.2000,
		Statute Law (Miscellaneous Provisions)
		Act (No 2) 1999. Assented to 3.12.1999.
	No 85	
		Date of commencement of Sch 2.34, assent, sec 2 (2); date of
		Marine Parks Amendment Act
		2000. Assented to 20.12.2000.
		Date of commencement, 2.3.2001, sec 2 and GG No 46 of 2.3.2001, p

		1079. The proclamation appointed 1.3.2001 as the date of commencement. Pursuant to section 23 (5) of the Interpretation Act 1987, the proclamation does not fail merely because it was not published in the Gazette until after the day appointed in the proclamation, but section 23 (5) provides, in that event, for the Act to commence on the day on which the proclamation was
2000	No 113	
2001	No 121	Justices Legislation Repeal and Amendment Act 2001. Assented to 19.12.2001. Date of commencement of Sch 2, 7.7.2003, sec 2 and GG No 104 of
2002	No 53	Statute Law (Miscellaneous Provisions) Act 2002. Assented to 4.7.2002.
2004	No 26	Fisheries Management Amendment Act 2004. Assented to 6.5.2004. Date of commencement of Sch 2, 1.7.2004, sec 2 and GG No 104 of

Table of amendments

Sec 29	Am 2000 No 113, Sch 1 [19]; 2004 No 26, Sch
Sec 32	Am 2000 No 113, Sch 1 [20] [21]; 2004 No 26,
Sec 39	Am 1999 No 85, Sch 2.34; 2000 No 113, Sch 1

Sch 4	Rep 1999 No 85, Sch 4. Ins 2000 No 113, Sch 1